

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 131 OF 2017

(Shri Mahesh s/o Ramesh Kharode ..vs.. Returning Officer, Sategaon Seva Sahakari Sanstha Maryadit
and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 13-01-2017

Heard Shri S.S. Shingane, Advocate for the
petitioner.

The petitioner has challenged the decision of the Returning Officer rejecting the objection of the petitioner for inclusion of names of the 145 members in the voters' list. Those 145 persons are not impleaded as party in the petition.

The contention of the petitioner is that the 145 persons, for inclusion of whose names in the voters' list the petitioner objected, are not agriculturist and therefore, their names cannot be included in the voters' list. The petitioner has filed Civil Application No.102/2017 seeking permission to amend the petition to incorporate the prayer for remitting the matter to the Returning Officer.

I am not inclined to consider the challenges raised by the petitioner at the back of the 145 persons whose names are included in the voters list. The learned

Advocate for the petitioner states that if the matter is remitted to the Returning Officer, those 145 persons will get an opportunity to substantiate their case before the Returning Officer. The submission is misconceived. Without *prima facie* examining the merits of the challenge to the inclusion of the 145 persons in the voters' list, the impugned decision cannot be set aside and the challenge cannot be examined in the absence of the 145 persons whose names are included in the voters' list. The petition is liable to be dismissed for non-joinder of necessary parties.

The petition is dismissed. No costs.

Civil Application (CAW) No.102/2017.

In view of disposal of the petition, the application praying for amendment of the prayer clause of the petition has become infructuous. It is disposed accordingly.

JUDGE

adgokar